

XIX ARTICLE 19

Artist Alert
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To more effectively defend the plight of artists across the world, ARTICLE 19 launches the Artist Alert - a regular briefing to highlight cases of artists around the world whose right to freedom of expression has been curtailed and abused.

***“The
Motherland
is Shit”***

- Sergio Witz

Painters, poets, singers, photographers, dramatists, authors, film-makers, musicians, and other artists are targeted because of their art and creation: they are silenced and censored through imprisonment, harrassment, intimidation, and in the worse cases, killed. The perpetrators are governments and state agents, but also non-state actors – a variety of groups intent on keeping full control on all forms of expression and thus on suppressing dissenting voices or images, in the name of purity, morality, religion or for a variety of other reasons.

Since the 1980s ARTICLE 19 has been advocating on cases where artists’ right to freedom of expression has been undermined. This new “Artist Alert” will consolidate, document and raise awareness of about the range and scope of abuses faced by artists around the world and the repeated and increasing attacks against the freedom to create.

Mexico: “The Motherland is Shit”

***“I will clean the urine off the floor,
With the flag,
That little rag,
Used by dogs to lay down,
Because nobody cares,
Three colours,
A small eagle –or is it only a bird–
That makes me vomit,
In a nationalistic way***

After publishing his latest poem “The Motherland is Shit” Sergio Witz from Campeche, Southern Mexico, has been charged with insulting a national symbol.

Despite Witz being a Professor of Literature and the poem winning first place in the “Tabasco Poetry Contest”, the Supreme Court ruled in favour of a fine and a public apology.

One of the judges noted that it was important to prevent freedom of expression because “otherwise we will face the excesses seen in 1960s America where people were allowed to burn their own flag”. Witz declared that “freedom of expression should not have any limits; otherwise [everybody] will be in a constant mental state of siege”.

Yemen: Musical Whistleblower Imprisoned

Musician Fahd al Qarni has been sentenced to eighteen months in prison and a fine of around US\$2,500 for highlighting the Yemeni government's repressive policies and widespread corruption.

Al Qarni was arrested on the way to a music festival and sings with humour in traditional folk compositions that are distributed in cassettes across Yemen.

Somalia: Cinemas Bombed, Dancers Attacked and Artist Murdered

Extremist groups have been making a number of attacks on cinemas in Somalia, throwing grenades into packed theatres and causing many deaths, particularly of children.

Militia from the Union of Islamic Courts reportedly attacked a dance troupe acting out a traditional folklore dance. The brutal assault just outside the capital city caused the deaths of two nomadic dancers.

Well-known musician, singer, actor and composer Abdulkadir Adow Ali was also stabbed to death in Mogadishu by three unidentified men. The identities of the murderers and their motives for killing the former member of the Waberi National Band are unknown.

Palestine: Political Illustrator Rewarded

When Baha Boukhari was arrested for his political cartoon of Hamas leader Ismail Haniyeh in February 2008, the Palestinian people rose up and showed immense support for the cartoonist.

As a reward for his courageous work, Boukhari received the 2008 "Courage in Editorial Cartooning Award" and announced his determination to continue to produce controversial cartoons.

Egypt: Women's Rights Author Censored

Egyptian author Nawal al-Saadawi has always had a bumpy relationship with her country's censors. Recently, her own publisher stopped printing two of her books because they were deemed blasphemous by some.

Al-Saadawi has made her reputation by defending women's rights and criticizing political repression in Egypt. She has been sent to jail more than once.

Critics of Al-Saadawi have said that she defamed God by depicting him as an old king never leaving the house unless surrounded by guards, and presenting the devil as a handsome man in his thirties.

Burma: actor and comedian Ko Zarganar was detained in June 2008 and the Mustache brothers are regularly censored and imprisoned.

Kuwait: last month, the Lebanese singer Haifa Wehbe was prohibited from performing because she was deemed to be too sexually provocative by the Parliament.

Iraq: according to the Iraqi Artists Association, nearly 80 per cent of all Iraqi singers have fled the country and at least 75 singers have been killed since the US-led invasion in 2003.

About freedom to create

Freedom of expression, including the right to access to information, is a fundamental human right. It is guaranteed under Article 19 of the *Universal Declaration on Human Rights* (UDHR) as follows:

Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR) guarantees the right in more or less in similar terms as the UDHR.

ARTICLE 19 considers that, in the absence of a specific intention to promote hatred or to commit a recognised criminal offence, censorship or criminal measures against artistic expression are illegitimate. We recognise that art may at times be offensive to some or even to many, but mere offence is not an appropriate threshold for curtailing freedom of expression.

The right to freedom of expression is also protected in all three regional human rights treaties, at Article 10 of the *European Convention on Human Rights* (ECHR), at Article 13 of the *American Convention on Human Rights* and at Article 9 of the *African Charter on Human and Peoples' Rights*.

Art in any form constitutes a key medium through which information and ideas are imparted and received. Freedom to create is

an essential attribute of freedom of expression, in the same way that creation is essential to expression.

The fundamental importance of freedom of expression has been recognised by international courts and bodies worldwide. At its very first session, in 1946, the UN General Assembly adopted Resolution 59(I) which states: "*Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the United Nations is consecrated.*"

This has been echoed by other courts and bodies. For example, the UN Human Rights Committee has said: "*The right to freedom of expression is of paramount importance in any democratic society.*"

The right to freedom of expression under international law is not absolute and restrictions may be imposed, for instance, to protect public morals and the reputation of others. However, any interference with the right has to be set out in law, and be necessary and proportionate for the purpose of protecting a legitimate aim recognised under international law.

Most importantly, as international human rights courts have stressed, the right to freedom of expression is applicable not only to "information" or "ideas" that are favourably received but also to those that offend. For instance, the European Court for Human Rights has ruled that: "*[F]reedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man ... it is applicable not only to "information" or "ideas" that are favourably received ... but also to those which offend, shock or disturb the State or any other sector of the population. Such are the demands of pluralism, tolerance and broadmindedness without which there is no "democratic society".*"

NOTES TO EDITORS:

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- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.